

§ 8.38

branch of the U.S. Government, of any independent agency of the United States, or of the District of Columbia, may within one year after his or her employment has ceased, appear personally as a practitioner before the Bureau with respect to any matter administered by the Bureau if that representation involves a specific matter under the former employee's official responsibility as a Government employee, within a one-year period prior to the termination of that responsibility.

(d) *Aid or assistance.* No former officer or employee of the Bureau, who is eligible to practice before the Bureau, may aid or assist any person in the representation of a specific matter in which the former officer or employee participated personally and substantially as an officer or employee of the Bureau.

(18 U.S.C. 207)

§ 8.38 Notaries.

No attorney, certified public accountant, or enrolled practitioner may, with respect to any matter administered by the Bureau, take acknowledgements, administer oaths, certify papers, or perform any official act in connection with matters in which he or she is employed as counsel, attorney, or practitioner, or in which he or she may be in any way interested before the Bureau.

(26 Op. Atty. Gen. 236)

§ 8.39 Fees.

No attorney, certified public accountant, or enrolled practitioner may charge an unconscionable fee for representing a client in any matter before the Bureau.

§ 8.40 Conflicting interests.

No attorney, certified public accountant, or enrolled practitioner may represent conflicting interests in practice before the Bureau, except by express consent of all directly interested parties after full disclosure has been made.

§ 8.41 Solicitation.

(a) *Advertising and solicitation restrictions.* (1) No attorney, certified public accountant or enrolled practitioner

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shall, with respect to any Bureau matter, in any way use or participate in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive or unfair statement or claim. For the purposes of this subsection, the prohibition includes, but is not limited to, statements pertaining to the quality of services rendered unless subject to factual verification, claims of specialized expertise not authorized by State or Federal agencies having jurisdiction over the practitioner, and statements or suggestions that the ingenuity and/or prior record of a representative rather than the merit of the matter are principal factors likely to determine the result of the matter.

(2) No attorney, certified public accountant or enrolled practitioner shall make, directly or indirectly, an uninvited solicitation of employment, in matters related to the Bureau. Solicitation includes, but is not limited to, in-person contacts, telephone communications, and personal mailings directed to the specific circumstances unique to the recipient. This restriction does not apply to: (i) Seeking new business from an existing or former client in a related matter; (ii) solicitation by mailings, the contents of which are designed for the general public; or (iii) non-coercive in-person solicitation by those eligible to practice before the Bureau while acting as an employee, member, or officer of an exempt organization listed in sections 501(c) (3) or (4) of the Internal Revenue Code of 1954 (26 U.S.C.).

(b) *Permissible advertising.* (1) Attorneys, certified public accountants and enrolled practitioners may publish, broadcast, or use in a dignified manner through any means of communication set forth in paragraph (d) of this section:

(i) The name, address, telephone number, and office hours of the practitioner or firm.

(ii) The names of individuals associated with the firm.

(iii) A factual description of the services offered.

(iv) Acceptable credit cards and other credit arrangements.

(v) Foreign language ability.

(vi) Membership in pertinent, professional organizations.

(vii) Pertinent professional licenses.

(viii) A statement that an individual's or firm's practice is limited to certain areas.

(ix) In the case of an enrolled practitioner, the phrase "enrolled to practice before the Bureau of Alcohol, Tobacco and Firearms."

(x) Other facts relevant to the selection of a practitioner in matters related to the Bureau which are not prohibited by these regulations.

(2) Attorneys, certified public accountants and enrolled practitioners may use, to the extent they are consistent with the regulations in this section, customary biographical insertions in approved law lists and reputable professional journals and directories, as well as professional cards, letterheads and announcements: *Provided*, That (i) attorneys do not violate applicable standards of ethical conduct adopted by the American Bar Association, (ii) certified public accountants do not violate applicable standards of ethical conduct adopted by the American Institute of Certified Public Accountants, and (iii) enrolled practitioners do not violate applicable standards of ethical conduct adopted by the National Society of Public Accountants.

(c) *Fee information.* (1) Attorneys, certified public accountants and enrolled practitioners may disseminate the following fee information:

(i) Fixed fees for specific routine services.

(ii) Hourly rates.

(iii) Range of fees for particular services.

(iv) Fee charged for an initial consultation.

(2) Attorneys, certified public accountants and enrolled practitioners may also publish the availability of a written schedule of fees.

(3) Attorneys, certified public accountants and enrolled practitioners shall be bound to charge the hourly rate, the fixed fee for specific routine services, the range of fees for particular services, or the fee for an initial consultation published for a reasonable period of time, but no less than thirty

days from the last publication of such hourly rate or fees.

(d) *Communications.* Communications, including fee information, shall be limited to professional lists, telephone directories, print media, permissible mailings as provided in these regulations, radio and television. In the case of radio and television broadcasting, the broadcast shall be pre-recorded and the practitioner shall retain a recording of the actual audio transmission.

(e) *Improper associations.* An attorney, certified public accountant or enrolled practitioner may, in matters related to the Bureau, employ or accept employment or assistance as an associate, correspondent, or subagent from, or share fees with, any person or entity who, to the knowledge of the practitioner, obtains clients or otherwise practices in a manner forbidden under this section: *Provided*, That an attorney, certified public accountant or enrolled practitioner does not, directly or indirectly, act or hold himself out as authorized to practice before the Bureau in connection with that relationship. Nothing herein shall prohibit an attorney, certified public accountant, or enrolled practitioner from practice before the Bureau in a capacity other than that described above.

[44 FR 47060, Aug. 10, 1979]

§ 8.42 Practice of law.

Nothing in the regulations in this part may be construed as authorizing persons not members of the bar to practice law.

Subpart E—Disciplinary Proceedings

§ 8.51 Authority to disbar or suspend.

The Secretary, after due notice and opportunity for hearing, may suspend or disbar from practice before the Bureau any attorney, certified public accountant, or enrolled practitioner shown to be incompetent, disreputable or who refuses to comply with the rules and regulations in this part or who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any client